

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

Randy Sanderson, Isaiah Hughes & Sons
Trucking, LLC, Final Destination Trucking,
LLC, Conway Transport, LLC, Brandon
Souder, Brian Hott, James Terry, Tyler
Mann, Austin Schaub, and Omegaline
Logistics, LLC, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

JMS Trucking, Inc., JMS Transportation Co.,
Inc., and JMS Dedicated Services L.C.,

Defendants.

CIVIL NO. 1:22-CV-00059-LTS-KEM
Hon. Chief Judge Leonard T. Strand

**PLAINTIFFS' UNOPPOSED MOTION
FOR FINAL APPROVAL OF RULE 23
CLASS ACTION SETTLEMENT**

COME NOW, and in accordance with this Court's Order Granting Preliminary Approval of Rule 23 Class Action Settlement and Providing for Notice [ECF 56] (the "Preliminary Approval Order"), Plaintiffs Randy Sanderson, Isaiah Hughes & Sons Trucking, LLC, Final Destination Trucking, LLC, Conway Transport, LLC, Brandon Souder, Brian Hott, James Terry, Tyler Mann, Austin Schaub, and Omegaline Logistics, LLC, individually and on behalf of all others similarly situated (collectively, "Plaintiffs"), by and through their undersigned attorneys who are Class Counsel in this Action,¹ and for their Unopposed Motion for Final Approval of Rule 23 Class Action Settlement,² do state as follows:

¹ Capitalized terms herein should be construed as defined in the Final Settlement Agreement (the "Settlement") attached as Exhibit A to the Declaration of Michael D. Stinson in Support of Plaintiffs' Motion for Preliminary Approval of Rule 23 Class Action Settlement, [ECF 55-2].

² Plaintiffs respectfully ask that the Court wait until at least September 18, 2023, to issue its Final Approval Order because of the Class Action Fairness Act ("CAFA") requirement that "[a]n order giving final approval of a proposed settlement may not be issued earlier than 90 days after [the

1. This Motion is made pursuant to Fed. R. Civ. P. 23(e).
2. In accordance with this Court's Preliminary Approval Order, this Motion is scheduled to be heard by the Court during the Final Approval and Fairness Hearing on September 1, 2023, at 3:00 p.m. at the United States District Court, Northern District of Iowa, 111 Seventh Avenue SE, Cedar Rapids, Iowa 52401.
3. By this Motion, Plaintiffs seek entry of the proposed order submitted to the Court and also attached as Exhibit E to the supporting Declaration of Michael D. Stinson filed contemporaneously herewith that, *inter alia*, and among other findings and decrees: (1) grants final approval of the Settlement as fair, reasonable, and adequate under Federal Rule of Civil Procedure 23; (2) reaffirms the Court's certification of the Class as set forth in its Preliminary Approval Order, including its appointment of the Named Plaintiffs as Class Representatives, appointment of Dorsey & Whitney LLP as Class Counsel, and its appointment of Rust Consulting, Inc. as Class Administrator; and (3) upon granting Plaintiffs' separately filed Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Service Awards, that directs the entry of final judgment dismissing the Action with prejudice, subject, however, to this Court retaining exclusive jurisdiction over the Settlement and Final Judgment, including enforcement of the same.
4. The Court should finally approve the Settlement under Federal Rule of Civil Procedure 23 because the Settlement is fair, reasonable, and adequate.
5. The Settlement provides substantial benefits to the Class while avoiding the

applicable regulatory agencies] are served with the notice required under subsection (b).” 28 U.S.C. § 1715(d). Defendants served the CAFA notices on June 19, 2023, [ECF 57], and, thus, the Final Approval Order may not issue until 90 days has lapsed from that date, *i.e.*, September 18, 2023.

substantial risks and expense of further litigation. In addition, the Settlement is the result of arm's length negotiations between experienced and qualified counsel after a protracted mediation process with former Chief Judge for the Southern District of Iowa the Honorable John A. Jarvey (Ret.). The involvement of a mediator in settlement negotiations supports the presumption of fairness and the conclusion that the settlement is free of collusion and undue influence.

6. Final approval of the Settlement is also warranted because the pro rata plan for distribution of the Residual Settlement Fund is fair and reasonable, and accounts for the magnitude of each Class Member's damages claim in apportioning those funds recovered for the benefit of the Class.

7. Further, the Class, as defined below and in this Court's Preliminary Approval Order, satisfies the requirements of Fed. R. Civ. P. 23(a) and (b)(3):

All persons and entities, except any affiliate of JMS and/or their immediate family members, who/that, in the time between January 1, 2016 and March 1, 2023, hauled one or more loads pursuant to the terms of JMS's Independent Contractor's Operating Agreement or as a Dedicated Carrier as defined in the Settlement.

8. As this Court found in its Preliminary Approval Order, and as the record shows, the Class meets the requirements of Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure.

9. In addition, the Settlement merits final approval because the Administrator has issued the Notice to Class Members in the form and manner as directed and approved by the Court in its Preliminary Approval Order and in satisfaction of all requirements under the Federal Rules of Civil Procedure and as a matter of due process. After the Notice issued, no Class Member requested exclusion or submitted an objection to the Settlement.

10. This Motion is supported by the records, filings, and proceedings in this Action to date, including the following:

- a. Plaintiffs' Memorandum of Law in Support of Unopposed Motion for Final Approval of Rule 23 Class Action Settlement, and all filings of record cited therein, including, without limitation, the Settlement at ECF 55-2 and the Court's Preliminary Approval Order at ECF 56;
- b. The Declaration of Michael D. Stinson in Support of Plaintiffs' Unopposed Motions: (1) for Final Approval of Rule 23 Class Action Settlement, and (2) for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses to Plaintiffs' Counsel, and Service Awards to Class Representatives (the "Stinson Declaration"), including **Exhibits A-E** thereto;
- c. The Declaration of Amanda Myette for Rust Consulting and **Exhibit A** thereto;
- d. The Declaration of David Olshanski in Support of Plaintiffs' Unopposed Motions: (1) for Final Approval of Rule 23 Class Action Settlement, and (2) for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses to Plaintiffs' Counsel, and Service Awards to Class Representatives;
- e. The [Proposed] Order Granting Final Approval of Rule 23 Class Action Settlement, Awarding Attorneys' Fees, Expenses, and Class Representative Service Awards, and for Entry of Final Judgment (the "Final Approval Order and Judgment") submitted contemporaneously to the Court herewith and attached as **Exhibit E** to the Stinson Declaration referenced above; and
- f. The presentations permitted by the Court during the Final Approval and Fairness Hearing.

11. Pursuant to LR 7(k), and in accordance with the Settlement, the undersigned certifies that Plaintiffs' Counsel has conferred in good faith with counsel for the Defendants concerning this Motion and Defendants do not oppose this Motion and Plaintiffs' request for entry of the Final Approval Order and Judgment.

WHEREFORE, Plaintiffs respectfully request that the Court grant Plaintiffs' Unopposed Motion for Final Approval of Rule 23 Class Action Settlement and enter the Final Approval

Order and Judgment accordingly.

Dated: August 22, 2023

Respectfully submitted,

DORSEY & WHITNEY LLP

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-and-

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Class Counsel and Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2023, the foregoing document was filed with the Clerk of Court via this Court's CM/ECF electronic filing system, and served on all counsel of record registered to receive electronic notice.

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